



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/160325

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 28, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Walworth County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on September 24, 2014, at Elkhorn, Wisconsin.

The issue for determination is whether Petitioner's FoodShare allotment has been correctly determined.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Mia Anderson

Walworth County Department of Human Services  
W4051 County Rd NN  
Elkhorn, WI 53121-1006

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Walworth County.
2. Petitioner filed this appeal to contest the reduction in her FoodShare allotment effective July 1m 2014. The allotment dropped from \$347.00 to \$128.00.
3. Petitioner sole source of income had been a pension of \$543.50. As of April 2014 she also began receiving a Social Security widow benefit of \$1121.00 pushing total income to \$1664.50.

4. Petitioner's household size is 2.
5. In determining Petitioner's FoodShare allotment the agency had been crediting Petitioner with the following deductions: a standard deduction of \$152, a shelter deduction of \$784.75 based on a standard utility allowance of \$450.00 and shelter costs of \$1091.00.

### **DISCUSSION**

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has an elderly blind or disabled member. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

Once a household passes the gross income test the following deductions are applied (*FSH, at § 4.6*):

- (1) a standard deduction - which currently is \$152 per month for a household of 1-3 persons, *7 CFR § 273.9(d)(1)*;
- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) Shelter and utility expenses deduction – the utility allowance is a variable based on a number of factors but the ultimate deduction equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5).* There is a cap of \$478.00 on the shelter cost deduction unless a household has an elderly [60 or older], blind or disabled member. *FSH, §§ 4.6.7.1 and 8.1.3.*

In reviewing the calculation based on the available evidence, I cannot note any errors. Petitioner notes that she lives with her son and he has about \$15,000 in medical bills. Nonetheless, a person must be over age 60 or blind or disabled to allow medical expense deductions. *See FSH, §4.6.4 and §3.8.1.1.* There is no indication that Petitioner's son is included in one of these categories. Petitioner might note that, should changes occur, changes reported in one month are effective in the month after the reported change. *FSH, §6.1.3.3.*

### **CONCLUSIONS OF LAW**

That the available evidence is sufficient to demonstrate that the agency has correctly determined Petitioner's FoodShare allotment.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 21st day of October, 2014

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\sDavid D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on October 21, 2014.

Walworth County Department of Human Services  
Division of Health Care Access and Accountability